

1 the transfer or assignment of any such license if the approval  
2 of such application would result in the applicant owning, op-  
3 erating, or otherwise controlling, directly or indirectly—

4           “(1) more than ten VHF broadcasting stations;

5           “(2) VHF television broadcasting stations the sig-  
6 nals of which can, in the aggregate, be received, ac-  
7 cording to commonly accepted industry standards, by  
8 more than 22½ per centum of the television house-  
9 holds in the United States; or

10           “(3) television broadcasting stations the signals of  
11 which can, in the aggregate, be received, according to  
12 commonly accepted industry standards, by more than  
13 27½ per centum of the television households in the  
14 United States.

15           “(b) If the Commission receives an application which  
16 would exceed the numerical limitation of subsection (a)(1) by  
17 not more than two, the Commission shall waive such limita-  
18 tion to the extent that the excess is the result of broadcasting  
19 service provided by one or more minority controlled televi-  
20 sion stations.

21           “(c) If the Commission receives an application which  
22 would exceed the numerical limitations of subsection (a) (2)  
23 or (3) by not more than 2½ per centum, the Commission  
24 shall waive such limitations to the extent that the excess is

1 the result of broadcasting service provided by one or more  
2 minority controlled television stations.

3       “(d) The term ‘minority controlled television station’  
4 means any television broadcasting station of which not less  
5 than 50 per centum is owned by one or more members of a  
6 minority group (as defined in section 309(i)(3)(ii)).”.

7       SEC. 3. EFFECTIVE DATE.—The provisions of this Act  
8 shall take effect on the date of enactment.

○

98TH CONGRESS  
2D SESSION

# H. R. 6134

To amend the Communications Act of 1934 to assure diversity of ownership of  
broadcasting stations.

---

## IN THE HOUSE OF REPRESENTATIVES

AUGUST 9, 1984

Mr. LELAND (for himself, Mr. DINGELL, and Mr. WIRTH) introduced the following  
bill; which was referred to the Committee on Energy and Commerce

---

## A BILL

To amend the Communications Act of 1934 to assure diversity  
of ownership of broadcasting stations.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Broadcast  
5 Station Ownership Act of 1984".

6 STATEMENT OF PURPOSES

7 SEC. 2. The purposes of this Act are—

8 (1) to promote opportunities for ownership by mi-  
9 norities and small businesses of broadcast properties in  
10 their local area;

(2) to preserve diversity of broadcast station ownership in order to assure diversity of viewpoints;

(3) to promote greater competition in the production and distribution of broadcast programming; and

(4) to establish objective standards for limiting concentrations in ownership of broadcast properties.

#### OWNERSHIP RULES

SEC. 3. Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 and following) is amended by adding at the end thereof the following new section:

#### "RESTRICTIONS ON OWNERSHIP

"SEC. 333. (a) The Commission shall not approve any application for a television broadcasting station license or for the transfer of any such license if the approval of such application would result in the applicant owning, operating, or otherwise controlling, directly or indirectly—

"(1) television broadcasting stations if the signals of such stations can, in the aggregate, be received by more than 30 percent of the television households in the United States, as determined under rules prescribed by the Commission; or

"(2) very high frequency television broadcasting stations if the signals of such stations can, in the aggregate, be received by more than 25 percent of such television households, as determined under rules prescribed by the Commission.

1       “(b)(1) The Commission shall not approve any applica-  
 2       tion for a radio or television broadcasting station license or  
 3       for the transfer of any such license if the approval of such  
 4       application would result in the applicant owning, operating,  
 5       or otherwise controlling, directly or indirectly—

6               “(A) television broadcasting stations if the aggre-  
 7       gate value of such stations exceeds 100 points, as de-  
 8       termined in accordance with paragraph (2);

9               “(B) amplitude modulation radio broadcasting sta-  
 10       tions if the aggregate value of such stations exceeds  
 11       100 points, as determined in accordance with para-  
 12       graphs (2) and (3); and

13              “(C) frequency modulation radio broadcasting sta-  
 14       tions if the aggregate value of such stations exceeds  
 15       100 points, as determined in accordance with para-  
 16       graphs (2) and (3).

17       “(2) The value assigned to television and radio broad-  
 18       casting stations for purposes of this section shall be as set  
 19       forth in the following table:

TV Market:	Points:
10 largest.....	10
11 to 20.....	9
21 to 30.....	3
Below 31.....	1

20       “(3) In the case of radio broadcasting stations which are  
 21       not located in any television market, ownership of any such  
 22       station shall be assigned a value of 6 points.

1       “(c)(1) In the case of any minority controlled station in  
2       which an ownership interest of not more than 49 percent is  
3       held by a person, the ownership interest of such person shall  
4       not be taken into account—

5               “(A) for purposes of the limit under subsection  
6       (a)(1) unless the stations covered by this subsection  
7       would otherwise result in the applicant exceeding such  
8       limit, applied as if ‘35 percent’ were substituted for ‘30  
9       percent’;

10              “(B) for purposes of the limit under subsection  
11       (a)(2) unless the stations covered by this subsection  
12       would otherwise result in the applicant exceeding such  
13       limit, applied as if ‘30 percent’ were substituted for ‘25  
14       percent’; and

15              “(C) for purposes of the limits under subsection  
16       (b)(1)(A), (B), and (C) unless the stations covered by  
17       this subsection would otherwise result in the applicant  
18       exceeding any such limit, applied as if ‘120 points’  
19       were substituted for ‘100 points’.

20       “(d) For purposes of this section:

21              “(1) The term ‘grade B contour’ means the field  
22       strength of a television broadcast station computed in  
23       accordance with regulations promulgated by the  
24       Commission.

1           “(2) The term ‘household’ means any dwelling oc-  
2       cupied by individuals as a housing unit. One or more  
3       rooms shall be treated as a housing unit if they are oc-  
4       cupied as a separate living quarters.

5           “(3) The term ‘minority controlled station’ means  
6       any broadcast station the majority interest in which is  
7       owned by one or more members of a minority group  
8       (as defined in section 309(i)(3)(C)(ii)).

9           “(4) The term ‘television household’ means any  
10      household in the United States which has a television  
11      broadcast receiver. Any television household outside  
12      the grade B contour of a television station shall not be  
13      considered as capable of receiving the broadcast signal  
14      of that station if it can be received solely by reason of  
15      carriage through a television cable system.

16          “(5) The term ‘television market’ means—

17               “(A) the specified zone (as defined by rule by  
18              the Commission) of any television broadcasting  
19              station licensed to a community listed in section  
20              76.51 of title 47, Code of Federal Regulations (as  
21              in effect October 1, 1983), or a combination of  
22              such specified zones in any case in which more  
23              than one community is listed; and

24               “(B) the specified zone of any television  
25              broadcasting station licensed to a community

1 which is not listed in section 76.51 of such title  
2 47.

3 "(6) The term 'television broadcasting station'  
4 means any full power television broadcasting station."

5 10-YEAR REVIEW

6 SEC. 4. During the 10th calendar year beginning after  
7 the date of the enactment of this Act, the Federal Communi-  
8 cations Commission shall prepare and transmit a report to  
9 the Congress which—

10 (1) assesses the effectiveness of the amendments  
11 made by this Act in (A) promoting opportunities for  
12 ownership by minorities and small businesses of broad-  
13 cast properties in their local area, (B) preserving diver-  
14 sity of broadcast station ownership, and (C) promoting  
15 greater competition in the production and distribution  
16 of broadcast programming; and

17 (2) contains such recommendations for legislative  
18 and administrative action as the Commission considers  
19 appropriate.

○





# UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS  
ENACTED DURING THE SECOND SESSION OF THE  
NINETY-EIGHTH CONGRESS  
OF THE UNITED STATES OF AMERICA

1984

AND

PROCLAMATIONS

---

VOLUME 98

IN THREE PARTS

---

PART 2

PUBLIC LAWS 98-370 THROUGH 98-515



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1986

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Public Law 98-396  
98th Congress

## An Act

Making supplemental appropriations for the fiscal year ending September 30, 1984,  
and for other purposes.Aug. 22, 1984  
[H. R. 5040]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes, namely:

Second  
Supplemental  
Appropriations  
Act, 1984.

## TITLE I

## CHAPTER I

## DEPARTMENT OF AGRICULTURE

## AGRICULTURAL RESEARCH SERVICE

## BUILDINGS AND FACILITIES

For an additional amount for acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Agricultural Research Service, \$50,200,000, to remain available until expended.

The Secretary of Agriculture may transfer the public use restrictions on land conveyed to Oklahoma State University in 1954 from that land to land of equal or greater value, as determined by the Secretary.

## ANIMAL AND PLANT HEALTH INSPECTION SERVICE

## SALARIES AND EXPENSES

For an additional amount for expenses, not otherwise provided for, necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, \$1,500,000.

## AGRICULTURAL MARKETING SERVICE

None of the funds appropriated or made available under this or any other Act for fiscal year 1984 may be used by the Secretary of Agriculture to implement any amendment to an order applicable to a fruit, vegetable, nut or specialty crop issued pursuant to section 8c of the Agricultural Adjustment Act, as amended and reenacted by the agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c), unless each ~~such~~ amendment thereto is submitted to a separate vote.

50 Stat. 246.  
7 USC 601.

County, Washington, not more than one thousand acres of land at an estimated cost of \$8,500,000 for the fish and wildlife mitigation purposes associated with this project. The Secretary is further authorized to undertake initial development of such lands and convey without monetary consideration the lands to the Department of the Interior, United States Fish and Wildlife Service for operation and maintenance.

An additional amount of \$8,500,000, to remain available until expended, is hereby appropriated for "Construction, general", Corps of Engineers—Civil, Department of the Army to carry out the provisions of this section.

Sec. 304. No funds appropriated by this or any other Act to the Federal Communications Commission may be used to implement the Commission's decision adopted on July 26, 1984, in Docket GEN 83-1009 as it applies to television licenses, prior to April 1, 1985, or for sixty days after the Commission's reconsideration of its decision in this matter, whichever is later. The term "implement" shall include but not be limited to processing, review, approval, or acquisition of any interest in or the transfer or assignment of television licenses.

FCC television  
licensing.

Sec. 305. (a) The Congress finds and declares that—

(1) the competing credit demands by State and local governments, agriculture, business, and consumers, aggravated by massive Federal debt financing and increasing credit demands by foreign governments, continue to cause serious economic disruption in rural America;

(2) the United States has a vital interest in protecting the economic health of American farmers;

(3) the American farmer has been caught in an unprecedented credit squeeze;

(4) monetary and fiscal policies have substantially caused real interest rates to remain at two or three times historic levels of such rates;

(5) high real interest rates have dramatically increased the value of the dollar to the detriment of farmers who devote at least one out of three acres of land to production for export;

(6) the average value of an acre of farm land fell this year for the third year in a row, the longest sustained decline since the Great Depression;

(7) the total amount of debt owed by American farmers is \$203,800,000,000;

(8) last year Brazil, Mexico, Argentina, and Venezuela held \$260,000,000,000 in external debt and the interest payments on these loans alone totaled more than \$20,000,000,000;

(9) the Governments of Brazil, Mexico, Argentina, and Venezuela have been successful in securing postponements in debt and principal repayments, favorable renegotiations, new loan guarantees, and other special arrangements through private negotiations, assistance from the United States Government, and the International Monetary Fund; and

(10) American farmers have been unsuccessful in obtaining as favorable special treatment from private banks or the Federal Government.

Farmers,  
availability of  
credit.

(b) It is therefore the sense of the Congress that—

(1) the President, in cooperation with the Board of Governors of the Federal Reserve System, should exercise appropriate authority to assure that an adequate flow of credit be available



Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Reexamination of the "Single Majority  
Stockholder" and "Minority Incentive"  
Provisions of Section 73.3555 of the  
Commission's Rules and Regulations

MM Docket No. 85-192

COMMENTS OF THE WASHINGTON POST COMPANY

The Washington Post Company submits these comments in response to the Commission's Notice of Proposed Rule Making of July 1, 1985 ("Notice"), in which the Commission requested comments on whether the "single majority stockholder" exception to its ownership attribution standards and the "minority incentive" provisions of its national multiple ownership rules work at cross-purposes. Specifically, the Commission posed the following two questions:

"(1) Whether the 'single majority stockholder' rule, in operation, substantially affects the efficacy of the 'minority incentives' established in the 'twelve station' proceeding; and

"(2) If [sc], what changes to either or both of these provisions are advisable."

Notice ¶ 11.

The Washington Post Company has an interest in any action the Commission may take with respect to these issues because, as recognized in an informal staff ruling, it is a

"single majority stockholder" corporation.<sup>1/</sup> For the reasons explained below, The Washington Post Company believes that the limited interaction of the two rules does not warrant the Commission's intervention at this time. To the extent the Commission concludes, however, that additional measures are needed to increase minority involvement in the broadcast industry, this should be done without abandoning or diluting the "single majority stockholder" exception.

Broadly speaking, the "single majority stockholder" exception provides that non-majority ownership interests in a broadcasting station will be disregarded for purposes of the Commission's multiple ownership rules, if the station is controlled by a "single majority stockholder" -- e.g., a single investor who owns over 50% of the station's voting stock.<sup>2/</sup> Among the several multiple ownership rules to which the exception applies is the 12-12-12 limitation on the number of television and AM and FM radio stations a single investor may own. The

---

1/ The Washington Post Company's wholly-owned subsidiaries are licensees of WDIV(TV), Detroit, Michigan, WFSB(TV), Hartford, Connecticut, WJXT(TV), Jacksonville, Florida, and WPLG(TV), Miami, Florida.

2/ Whether control of a station is in the hands of one person is ordinarily determined by application of the simple test of whether a single investor owns over 50% of the voting stock. The Commission has also said, however, that it will extend the exception to situations of a lesser percentage ownership where special circumstances show that the stockholder nevertheless has full control. In re Corporate Ownership Reporting and Disclosure By Broadcast Licensees, 97 F.C.C.2d 997, 1010-11 (April 30, 1984).

Commission has stated that its proposed rule making would address the "single majority stockholder" exception only insofar as it applies to the 12-12-12 limitation and not to the significant number of other multiple ownership rules to which the minority incentive does not apply. (Notice ¶ 10.)

The "single majority stockholder" exception serves a significant and rational purpose independent of encouraging -- or discouraging -- minority investment. The multiple ownership limitation, "premised on the principle that 'a democratic society cannot function without the clash of divergent views,'"<sup>1/</sup> seeks to ensure that control of media facilities does not become concentrated, and that widely diverse groups will have access to the media. But the purpose of the limitation -- to further the expression of diverse views -- is simply irrelevant when an investor has no control over or opportunity to influence the operation of the station it has invested in. Where one stockholder owns over 50% of the voting stock of a broadcast facility, the remaining non-majority stockholders clearly cannot control or influence that station's programming or other operations. Without the "single majority stockholder" exception, however, the Commission's multiple ownership limitations would sweep these non-majority stockholders within their scope, limiting their investment opportunities for no rational reason

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1/ In re Corporate Ownership Reporting and Disclosure by Broadcast Licensees, supra p. 2 n. 2, 297 F.C.C.2d at 1004 (April 30, 1984) (citation omitted).



and depriving broadcasters of financial resources that might otherwise strengthen their operations.

In its present form, the "single majority stockholder" exception draws a meaningful distinction between controlling and non-controlling interests, and is relatively easy to apply.<sup>1/</sup> It would be difficult to devise a rule better tailored to ensure that the objectives of the multiple ownership limitations are achieved without unduly limiting investment opportunities. To abandon or dilute the exception would artificially impute control or influence to non-majority stockholders who do not in fact have it, which in turn would undermine the integrity of the Commission's rules. This is particularly so because the Commission's proposed rule making would inevitably result in inconsistent attribution standards; depending on which multiple ownership rule was in issue, the same investment might or might not be regarded as an "ownership" interest.<sup>2/</sup>

It apparently has been suggested to the Commission that without the "single majority stockholder" exception more investors would become stockholders in minority-owned stations. (See Notice ¶ 5.) But this is not in the least self-evident. Indeed, for investors with existing interests in twelve or more

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<sup>1/</sup> See p. 2 n. 1, supra.

<sup>2/</sup> As noted above, the Commission has made clear that the proposed rule making would affect only rules adopted in the "twelve station" proceeding, and hence "would of necessity result in disparate attribution standards for the national and local media multiple ownership rules." Notice ¶ 10.

stations, some of which are controlled by "single majority stockholders," the "single majority stockholder" exception makes additional investments in minority-owned stations -- even beyond the maximum two stations allowed by the minority incentives -- possible. At the same time, the "minority incentive" provisions have an independent attraction for investors who wish to be active in the broadcast industry, since they allow the acquisition of control of 14 stations, rather than just 12, if at least two are minority-controlled. By contrast, the "single majority stockholder" exception does not increase the number of stations an investor can control -- it merely allows him to invest in additional stations that he cannot control. Thus, an investor interested both in the control of broadcast companies and in increasing his broadcasting investments might well take advantage of the "minority incentive" provisions while also investing in "single majority stockholder" stations.

Moreover, as the Commission itself has recognized (Notice ¶ 6), the "minority incentive" provisions allow investors considerably more flexibility, since some investments will qualify for preferential treatment under them but not under the "single majority stockholder" rule. In such cases there is no basis for saying that the two rules are at cross-purposes. For example, the "minority incentive" provisions apply to investments in partnerships and other non-corporate entities, while the "single majority stockholder" exception applies only to

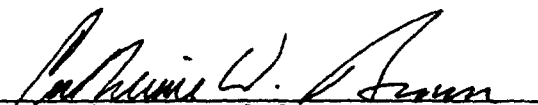
investments in corporations. To trigger the "single majority stockholder" exception, over 50% of the corporation's voting stock must be held by one person or entity; the incentive provisions, however, apply to any station in which over 50% of the voting stock is held by any number of minorities, and not just by a single individual. Finally, officers and directors cannot avoid ownership attribution under the "single majority stockholder" exception even if they have only a minimal investment in their station; they would, however, be entitled to take advantage of the "minority incentive" provisions. (Id.)

The Washington Post Company therefore opposes any effort to change the "single majority stockholder" exception. The exception is race-neutral and can and should stand on its own merits. Moreover, before undertaking further rule changes, the Commission might obtain empirical data on how the minority incentives are working; such data may well demonstrate that the concerns raised in the Notice are overstated or even purely theoretical. To the extent the data show, however, that minority-controlled stations are still not attracting sufficient investment capital, the Commission should focus on increasing the incentives for such investments yet further. Alternatives the Commission has previously rejected -- such as adding minority incentives to the Commission's ownership attribution rules -- might be reconsidered in light of experience with the existing

rules.<sup>1/</sup> The Commission might also consider extending the "minority incentive" provisions to stations that are minority- controlled but whose voting stock is less than 50% -- and perhaps as little as 20% -- minority-owned.<sup>2/</sup> But it should not dilute or abandon the "single majority stockholder" exception, which is integral to the fair operation of the Commission's multiple ownership limitations and was never intended to address the problem of minority involvement in the broadcast industry.

Respectfully submitted,

By

  
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(202) 662-5506

Attorneys for The Washington  
Post Company

August 7, 1985

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1/ For example, it was once suggested that Minority Enterprise Small Business Investment Companies be accorded passive investor status, and that minority directors and officers not be disqualified from taking advantage of the "single majority stockholder" exception. Such rule changes would not directly increase the number of minority-controlled stations, but could increase overall minority involvement in the broadcast industry. The Washington Post Company is not now suggesting that either rule be adopted, but simply cites them as illustrations that other alternatives may be available and could presumably be developed in a rule making proceeding.

2/ For purposes of issuing tax certificates and authorizing distress sales, the Commission has already accorded minority-owned status to stations that are only 20.1% minority-owned but in which minority persons have complete control by virtue of being general partners in limited partnership entities. Minority Ownership in Broadcasting, 52 R.R.2d 1301 (1982).



48 FR 10082 printed in FULL format.

FEDERAL COMMUNICATIONS COMMISSION  
AGENCY: Federal Communications Commission.

47 CFR Parts 73 and 76

Corporate Ownership Reporting and Disclosure by Broadcast Licensees and; Amendment of the Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations and CATV Systems and; Reexamination of the Rules Regarding the Attribution of Ownership Interests in Broadcast, Cable Television and Newspaper Entities

[FCC 83-46; Docket Nos. 20521, 20548, BC Docket No. 78-239, and MM Docket No. 83-46; RM-3653; RM-3695; RM-4045]

48 FR 10082

March 10, 1983

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rule Making initiates a proceeding aimed at comprehensively reviewing the Commission's ownership attribution rules. This action is necessary to consolidate a number of related, pending proceedings and to ensure that our attribution rules do not unnecessarily restrict capital investment in FCC-licensed facilities.

This rule making proposes to increase the level of cognizable ownership interests up to a level of 5 to 20 percent. In addition, a number of ancillary proposals are made to revise the Commission's ownership reporting requirements, eliminate the existing distinction between ownership interests in closely-held and widely-held corporations and reduce the effect of the attribution rules on officers and directors of corporate licensees.

DATES: Comments must be submitted by April 25, 1983, and reply comments by May 10, 1983.

Adopted: January 27, 1983.

Released: February 15, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Randy W. Thomas, Office of the General Counsel, (202) 632-6990.

TEXT: SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio broadcast, Television.

47 CFR 76

Cable television.

By the Commission: Commissioner Quello concurring in the result; Commissioners Fogarty and Rivera concurring and issuing a joint statement; Commissioner Jones concurring and issuing a statement.

## I. Introduction

1. This Notice of Proposed Rule Making commences a proceeding aimed at comprehensively revising the standards for attributing interests in broadcast, cable television and newspaper properties for the purpose of applying the multiple ownership rules. The goal of the Commission's multiple ownership rules is to promote economic competition in telecommunications and to provide a diversity of voices in the marketplace of ideas by ensuring that control of the broadcast media is not concentrated in only a few hands:

Simply stated, the fundamental purpose \* \* \* of the multiple ownership rules is to promote diversification of ownership in order to maximize diversification of program and service viewpoints as well as to prevent undue concentration of economic power contrary to the public interest.

Amendment of Multiple Ownership Rules, Docket No. 8967, 18 FCC 288, 291-292 (1953). See also Notice of Proposed Rulemaking, Docket No. 14711, FCC 62-747, 27 FR 6486 (1962). The attribution portion of the rules is the mechanism by which the multiple ownership rules are given practical effect. That is, the attribution rules define what constitutes a "cognizable interest" for the purpose of applying the multiple ownership rules to specific situations.

2. It has been almost three decades since the Commission first addressed the issue of what constitutes a "cognizable interest" for purposes of operation of its multiple ownership proscriptions. During that period, a number of significant developments have taken place in the investment community and the telecommunications marketplace that warrant revisiting the attribution rules. In addition, there currently are pending several proceedings involving our ownership rules: three related dockets, n1 three undocketed proceedings n2 and several waiver requests. n3 These related proceedings have been pending from between one to eight years. It is our intention that the present proceeding be wide-ranging and, to the extent practicable, dispositive of these interrelated proceedings. We intend to resolve the outstanding proceedings that have been consolidated into this docket in subsequent Report and Orders, as Commission resources permit. n4

n 1 The docketed ownership proceedings that are still pending are as follows: Notice of Proposed Rule Making in Docket 20521, issued June 11, 1975, regarding corporate ownership disclosure; Further Notice of Proposed Rule Making in Docket 20548, issued March 9, 1977, regarding a ten percent cognizable ownership benchmark for all multiple ownership purposes, except the seven station rule; and BC Docket 78-239, issued July 27, 1978, regarding voting trusts and other

non-voting interests.

n 2 The undocketed ownership proceedings that are before the Commission are as follows: RM-3653, filed April 21, 1980 by the First Manhattan Company, regarding a rule amendment to establish a 5% cognizable ownership benchmark for investment advisors; RM-3695, filed June 5, 1980, by the Investment Company Institute, regarding a rule amendment to increase the cognizable ownership benchmark to 10% and RM-4045, filed January 27, 1982, by the Centennial Fund, regarding a rule change to allow self-administered pension funds to be subject to a 5% ownership benchmark.

n 3 Several waiver requests have been filed with the Commission. For example, the Ford Foundation is currently seeking a waiver to grant it a 5% benchmark for both closely-held and widely-held corporate licensees; and the Commission recently granted a waiver to permit the New York State Teachers' Retirement System to have a 5% benchmark for its self-administered pension fund. Harry L. Drubin, Jr., Esq., FCC-83-16, (adopted January 20, 1983, released January 24, 1983).

n 4 It is not the Commission's intention in this proceeding to evaluate the underlying premises of the individual multiple ownership rules; it is only to determine to whom and how those rules should be applied.

## II. Discussion

### A. Multiple Ownership Rules and Policies

3. Collectively, the media multiple ownership rules consist of three broad types of geographic proscriptions: national, regional and local. The national rules are: (1) the "seven station" rule, which establishes an absolute limit on an individual entity's broadcast station ownership. No entity may own, operate, control or have any interest in more than seven AM, seven FM and seven television (of which no more than five may be VHF) stations, 47 CFR 73.35(b)(1), 73.240(a)(2) and 73.636(a)(2); and (2) the "network/cable cross-ownership" rule, which prohibits an entity from owning, operating, controlling or having an interest in both a national television network and a cable television system. 47 CFR 76.501(a)(1). n5

n 5 There is currently pending a Notice of Proposed Rule Making that proposes the deletion of the network/cable television cross-ownership rule. Notice of Proposed Rule Making, CT Docket No. 82-434, 47 FR 39212 (Sept. 7, 1982).

4. The "regional concentration of control" rule proscribes common ownership, operation or control of three or more broadcast stations (in any service) where any two are within 100 miles of the third and there is primary service contour overlap of any of the stations' signals. 47 CFR 73.35(b)(1), 73.240(a)(2) and 73.636(a)(2).

5. The local multiple ownership rules consist of: (1) the "duopoly" rule, which prohibits any party from owning, operating or controlling two or more broadcast stations in the same service if there is overlap of the stations' signals, 47 CFR 73.35(a)(1), 73.240(a)(1) and 73.636(a)(1); (2) the



"one-to-a-market" rule, which essentially limits common ownership, operation or control of a radio and television station in the same community; Id.; (3) the "newspaper/broadcast cross-ownership" rule, which prohibits any entity from owning, operating or controlling a broadcast station and a daily newspaper in the community in which the newspaper is published, Id.; and (4) the "broadcast/cable cross-ownership" rule, which applies to the common ownership, control and operation prohibition to co-located broadcast television and cable television system, 47 CFR 76.501(a)(2).

6. Closely related to these rules is the "cross interest policy" that prohibits certain types of interests in two broadcast stations in the same service in the same community. Essentially meant to encourage arms-length transactions, this policy would limit, for example, ownership of one AM radio station in a market by one entity, if at the same time, that entity's principals maintain a significant employment or managerial role in another AM station in the same market. See Cleveland Television Corp., 52 RR 2d 581, 585 (Rev. Bd. 1982); Farmville Broadcasting Co., 47 FCC 2d 463, 464 (1974); United Community Enterprises, Inc., 37 FCC 2d 953, 960 (Rev. Bd. 1972).

#### B. Attribution Rules

7. The attribution rules are the mechanisms by which the multiple ownership rules are implemented and enforced. Ownership interest benchmarks have been set at a point below which the rules are not applied. These ownership benchmarks define the interests in or relations to a Commission licensee, cable system or newspaper that are cognizable for purposes of compliance with the Commission's multiple ownership rules. The benchmarks define the amount of minority ownership that is cognizable under the various provisions of the ownership rules. As the Commission previously noted:

For corporate broadcast licensees, the decisive factors in determining whether stock holdings may thwart the purpose of the [ownership] rules are the amount of stock held and the right to vote the stock.

Multiple Ownership of AM, FM and TV Stations (Docket No. 15627), 13 FCC 2d 357, 363 (1968).

8. Simply stated, the attribution rules provide that media interests are imputed following the line of control to an ultimate entity. Thus, media interests of broadcast licensees and cable operators are ascribed to officers, directors, partners, trustees and significant shareholders (vertical attribution upward). Media interests of individual officers, directors, partners, trustees and shareholders of the same entity are not aggregated (no horizontal attribution). n6 An interest that is "significant" or reportable is defined through the various ownership benchmarks.

n6 The provisions in the multiple ownership rules limiting "indirect" ownership, operation or control provide the basis for the attribution mechanics.

9. Although administrative interpretation and case law have generated variable standards of permissible minority equity ownership in corporate licensees, n7 the ownership benchmarks generally provide that for corporate licensees with more than fifty shareholders, a cognizable interest is inherent